

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

EARL PARRIS, JR., individually, and )  
on behalf of a Class of persons similarly )  
situated, )  
  )  
*Plaintiff*, ) Civil Action No. 4:21-cv-40-TWT  
  )  
v. )  
  )  
3M COMPANY, et al., )  
  )  
*Defendants*. )

**PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO**  
**DAIKIN'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS THE**  
**AMENDED COMPLAINT**

Plaintiff, by and through undersigned counsel, respectfully seeks leave of the Court to file a brief Sur-Reply to Daikin's Reply in Support of its Motion to Dismiss the Amended Complaint. [Doc. 109]. A copy of the proposed Sur-Reply is attached hereto as Exhibit A. Plaintiff contacted counsel for Daikin regarding the filing of this motion, and defense counsel has indicated that they oppose the filing.

Although neither the Federal Rules of Civil Procedure nor this Court's Local Rules authorize the filing of a sur-reply, the Court has the discretion to permit the filing of a sur-reply where a valid reason exists, "such as where the movant raises new arguments in its reply brief." *Dalambert-Ducena v. Ocwen Fin. Corp.*, No.

1:14-CV-3025-TWT, 2015 WL 847454, at \*2 (N.D. Ga. Feb. 26, 2015) (*quoting Fedrick v. Mercedes-Benz USA, LLC*, 366 F.Supp.2d 1190, 1197 (N.D. Ga. 2005)).

As set out in more detail in the attached proposed Sur-Reply, Daikin raises a new argument in its Reply brief that was not raised in its original brief, and additionally cites two cases for the first time to support this new argument. Thus, granting leave to file a brief sur-reply will allow Plaintiff to address this new argument and authority.

For the foregoing reasons, Plaintiff submits that granting this motion will assist the Court in rendering a decision on the pending motions to dismiss the Amended Complaint.

Respectfully submitted,

**DAVIS & WHITLOCK, P.C.**

/s/ James S. Whitlock

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Northern District of Georgia Civil Local Rule 7.1(D), the undersigned counsel certifies that the foregoing filing is prepared in Times New Roman point font, as mandated in Local Rule 5.1(C).

This the 16<sup>th</sup> day of June, 2021.

/s/ James S. Whitlock

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUR-REPLY TO DAIKIN'S REPLY IN SUPPORT OF ITS MOTION TO DISMISS THE AMENDED COMPLAINT** has been filed electronically with the Clerk of Court by using the CM/ECF system which will automatically email all counsel of record.

This the 16<sup>th</sup> day of June, 2021.

/s James S. Whitlock